IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 20TH DECEMBER 2006 / 29TH AGRAHAYANA 1928

Crl.MC.No. 4086 of 2006()

AGAINST THE JUDGEMENT/ORDER IN BA.2735/2006
CMP.1735/2006 of CHIEF JUDICIAL MAGISTRATE COURT, TRIVANDRUM

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PETITIONER/ACCUSED:

NARUL ISLAM SHAIK,
S/O.ABDU KUNDOOS,
JUMSHED MANDALDOLA GRAMA,
RADHA NAGAR POLICE STATION
PYARPOOR POST, SAHIBGAJN DISTRICT,
JHARKHAND STATE.

BY ADV. SRI.O.S.JAFARKHAN

RESPONDENTS/COMPLAINANT:

STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.PUZHAKKARA MUHAMMED

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 20/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.4086 of 2006

Dated this the 20th day of December 2006

O R D E R

The petitioner, against whom there is a prosecution under Section 457,361,380 I.P.C, was directed to be released on bail as per order dated 22/05/2006 passed by this court subject to conditions. Interalia it was directed that the sureties (and the accused?) must produce solvency certificates.

2. The learned counsel for the petitioner submits that though the petitioner was arrested on 17/03/2006, bail was granted on 22/05/2006. The petitioner languishes in prison even now for the reason that he has not been able to make available sureties with solvency certificates. He is inside the prison and it is practically impossible for him to secure sureties with solvency certificates while he is in jail. It is, in these circumstances prayed that the condition imposed may be modified and fetters may not be placed on the discretion of the learned Magistrate to receive and accept the sureties if they are found to be adequate and solvent.

3. In the facts and circumstances of this case, I am persuaded to agree with the learned counsel for the petitioner. I am satisfied that the direction that the sureties should produce solvency certificates need not be insisted. The learned Magistrate shall be at liberty to release the petitioner on bail accepting the solvent sureties whom the petitioner may produce. Appropriate safeguards may be insisted but rigid insistence on production of solvency certificates need not be made.

4. This Criminal Miscellaneous Case is in these circumstances allowed in part to the above extent.

(R.BASANT, JUDGE)

jsr

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006